

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILMER B. GAY,	:	CIVIL ACTION
	:	
Plaintiff	:	
	:	
v.	:	
	:	
ROBERT D. SHANNON, et al.,	:	
	:	
Defendants	:	No. 02-4693

RESPONSE TO PLAINTIFF'S OBJECTIONS TO BILL OF COSTS

This is a pro se prisoner's civil rights action. Judgment was entered against the plaintiff, and that judgment was affirmed on appeal.

On April 3, 2007, the Commonwealth defendants filed a routine Bill of Costs in this matter, requesting that plaintiff be required to pay costs in the amount of \$332.05 (\$185.65 for a deposition transcript, plus \$146.40 in accordance with the mandate of the Court of Appeals). The Clerk of this court sent a letter to plaintiff, advising him that he had 14 days to file any objections to the Bill of Costs (and allowing defendants 14 more days to respond to any objections).

Plaintiff has filed timely objections, but his objections are totally baseless. In general, a prevailing party is entitled to recover costs as of course. See Fed.R.Civ.P. 54(d)(1). Plaintiff's submission to the court, purporting to object to the taxation of costs in this particular case, is a strident, unfocused rant. Saying nothing about the applicable law, he instead goes on at length, accusing defense counsel of fraud and all sorts of other misconduct. In fact,

this court's authority to tax deposition expenses as costs is unassailable, see, e.g., *In re Baby Food Antitrust Litigation*, 166 F.3d 112, 138-39 (3d Cir. 1999), as is its authority to enter a judgment for appellate costs pursuant to the mandate of the court of appeals, see *Whitfield v. Scully*, 241 F.3d 264, 274 (2d Cir. 2001); *United States v. Bd. of Public Education of the City of Savannah and the County of Chatham*, 405 F.2d 925, 925-26 (5th Cir. 1968).

Without question, the costs the Commonwealth defendants seek are recoverable. Plaintiff's objections should be overruled.

Respectfully submitted,

THOMAS W. CORBETT, JR.
Attorney General

By: /s/ Claudia M. Tesoro

Office of Attorney General
21 S. 12th Street, 3rd Floor
Philadelphia, Pa. 19107
Phone: (215) 560-2908
Fax: (215) 560-1031

Claudia M. Tesoro
Senior Deputy Attorney General
Attorney I.D. No. 32813

Susan J. Forney
Chief Deputy Attorney General

Date: April 23, 2007

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WILMER B. GAY,	:	CIVIL ACTION
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CERTIFICATE OF SERVICE

I, Claudia M. Tesoro, hereby certify that the foregoing Response to Plaintiff's Objections to Bill of Costs has been filed electronically and is available for viewing and downloading from the Court's Electronic Case Filing System. I further certify that a true and correct copy of this response was served on April 23, 2007, by first class mail, postage prepaid to:

Wilmer B. Gay, AF-2709
SCI Huntingdon
1100 Pike Street
Huntingdon, Pa. 16654-1112

THOMAS W. CORBETT, Jr.
ATTORNEY GENERAL

By: /s/ Claudia M. Tesoro

Office of Attorney General
21 S. 12th Street, 3rd Floor
Philadelphia, Pa. 19107
Phone: (215) 560-2908
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Susan J. Forney
Chief Deputy Attorney General